

IN THE SUPREME COURT OF THE STATE OF DELAWARE

QUINTON A. DORSEY,	§
	§ No. 406, 2005
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0404010428
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 27, 2006

Decided: April 4, 2006

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 4th day of April 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Quinton A. Dorsey, filed an appeal from the Superior Court's August 19, 2005 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we affirm.

(2) In March 2002, Dorsey was charged with Possession with Intent to Deliver Drugs, Maintaining a Dwelling for Keeping Controlled Substances, Conspiracy in the Second Degree, and Possession of Drug Paraphernalia. In September 2002, Dorsey was charged with several

additional drug and weapon offenses as well as a violation of probation (“VOP”). When Dorsey failed to appear for a contested VOP hearing, a capias was issued for his arrest. When the police found Dorsey in April 2004, they found drugs and drug paraphernalia in his clothing and in his apartment. He was charged with yet another set of drug and weapon offenses, and was also charged with resisting arrest in connection with his attempt to escape from the police.

(3) In June 2004, Dorsey pleaded guilty to Maintaining a Dwelling for Keeping Controlled Substances, Resisting Arrest, Possession of a Firearm During the Commission of a Felony, Receiving a Stolen Firearm, and Possession of a Deadly Weapon By a Person Prohibited. He also admitted to a VOP. Dorsey was sentenced to a total of 7 years incarceration at Level V, to be followed by probation.

(4) On this appeal, Dorsey claims that: (a) his guilty plea was involuntary as a result of the ineffective assistance of his counsel, in that counsel failed to investigate the facts of the case and to file a motion to suppress the drug evidence; and (b) the Superior Court committed legal error by not expanding the record when considering his postconviction motion.

(5) The transcript of Dorsey’s plea colloquy reflects the following: The Superior Court had granted Dorsey an extension of one week to

consider the plea offer extended by the State. At the time of the plea hearing, Dorsey's attorney requested an additional week in order to consult with a Philadelphia attorney. Because the State would not agree to keep its plea offer open for an additional week, Dorsey's counsel requested an opportunity to confer with Dorsey, which the Superior Court granted. After conferring at length with Dorsey, Dorsey's counsel reported that his client would accept the plea the State had offered.¹

(6) While Dorsey argues that his guilty plea was involuntary, the transcript of his plea colloquy belies that claim. At the hearing, Dorsey stated that no one made him any promises in exchange for his guilty plea, no one threatened him or forced him to plead guilty, and no one promised him what his sentence would be. He also admitted that he committed the offenses to which he was pleading guilty and confirmed that he was satisfied with his counsel's representation. In the absence of clear and convincing evidence to the contrary, Dorsey is bound by the representations he made during his plea colloquy.²

(8) To prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must show that, but for his

¹ While Dorsey admitted to habitual offender status, he was not sentenced as a habitual offender. Del. Code Ann. tit. 11, § 4214.

² *Somerville v. State*, 703 A.2d 629, 631-32 (Del. 1997).

counsel's unprofessional errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.³ There is no evidence in the record that any error on the part of Dorsey's counsel caused him to plead guilty. To the contrary, the record reflects that Dorsey's plea agreement provided him a significant benefit. Moreover, given the circumstances of his arrest, the evidence against him, and his criminal history, there is no reason to believe that Dorsey would have received a lesser sentence had he not pleaded guilty and had proceeded to trial. For all of the above reasons, we find Dorsey's first claim to be without merit.

(9) Dorsey's second claim is that the Superior Court improperly failed to expand the record in order to address the arguments he made in his postconviction motion. Under Superior Court Criminal Rule 61(g) (3), "in any case in which an expanded record is directed," certain documents, including exhibits and affidavits, must be submitted to the opposing party. However, under Rule 61(g) (1), it is within the discretion of the Superior Court in the first instance to determine if an expanded record is needed. The Superior Court found no need to expand the record in connection with its consideration of Dorsey's postconviction motion. We conclude that there

³ *MacDonald v. State*, 778 A.2d 1064, 1074 (Del. 2001).

was no error or abuse of discretion on the part of the Superior Court in so deciding. We, therefore, find Dorsey's second claim to be without merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice